

REMARKS/ARGUMENTS

Claims 1, 3, 5-11, 13-15, 17-76, 80-108, and 111-119 are pending.

Claims 23, 80 and 82 have been amended for clarification. Support for these amendments can be found in the original claims and at least at paragraphs [0027] to [0030], [0066], [0097], [00115] and [00116] of the Specification as filed. No new matter has been added.

Former claims 23-48, 80-108, 112 and 113 are rejected in the Office Action under 35 USC 112, second paragraph as being indefinite.

In particular, the Office Action states that the terms "approximates" or "approximating" in claims 23, 80 and 82 are undefined in the specification. The Applicant respectfully disagrees. As described in the description at the paragraphs mentioned above, the sizes of the spacers or the distance between the barriers are approximate to the size of the cells or bodies of the cells for the reason that the barriers can contact or confine the cells without overly compressing them. The skilled person will thus be able to determine the recited size in view of the description and the other features recited in the claims.

In any event, claim 23 has been amended to clarify that the spacers are sized to approximate the size of the cells and bodies of cells so as to prevent the first and second barriers to overly compressing the cells or bodies of cells; claim 80 has been amended to clarify the distance between the barriers approximates the size of cells and bodies of cells to be cultured such that both the first and second barriers contact the cells or bodies of cells to impede their movement; and claim 82 has been amended to clarify that the space is so sized as to confine a single cell.

It is noted that in *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 USPQ2d 1081 (Fed. Cir. 1986), the court held that a claim limitation specifying that a certain part of a pediatric wheelchair be "so dimensioned as to be insertable through the space between the doorframe of an automobile and one of the seats" was definite. The court stated that the phrase "so dimensioned" is as accurate as the subject matter permits, noting that the patent law does not

Appl. No. 10/582,975
Group Art Unit: 1636
Amendment dated March 5, 2010
Reply to Final Office Action mailed January 6, 2010

require that all possible lengths corresponding to the spaces in hundreds of different automobiles be listed in the patent, let alone that they be listed in the claims. It is respectfully submitted that the same principle applies in the present case.

In view of the above, withdrawal of the rejection of claims 23, 80 and 82, and their respective dependent claims 24-48, 81, and 83-108, is respectfully requested.

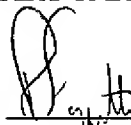
The Office Action also rejects the use of the term "substantially" in claims 112 and 113. The applicant respectfully traverses this rejection. As noted in MPEP 2173.05(b), the court has consistently held that the term "substantially" is not indefinite. See for example, *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960), *In re Mattison*, 509 F.2d 563, 184 USPQ 484 (CCPA 1975), and *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988). Thus, withdrawal of the rejection of claims 112 and 113 is also respectfully requested.

The Agent for the applicant thanks Examiner James Ketter for the telephonic interviews of February 24 and March 5, 2010. As the interviews were informal, Examiner Ketter has indicated that no interview summary for these interviews needs to be filed.

Accordingly, it is believed that the application as amended is in condition for allowance.

Respectfully submitted,

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Date: March 5, 2010
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